

**FILED****APR 5 1999**

UNITED STATES BANKRUPTCY COURT **PEGGY B. DEANS, CLERK**  
 EASTERN DISTRICT OF NORTH CAROLINA **U.S. BANKRUPTCY COURT**  
 RALEIGH DIVISION **EASTERN DISTRICT OF N.C.**

IN THE MATTER OF	)	CASE NO. 98-02675-5-ATS
-OF-	)	
INTERNATIONAL HERITAGE, INC.	)	CHAPTER 7
(TAX ID #56-1921093),	)	
Debtor	)	
_____	)	

**MOTION FOR ORDER DETERMINING WHETHER COUNSEL SHOULD WITHDRAW**

COMES NOW Terri L. Gardner of the law firm of Smith Debnam Narron Wyche Story & Myers, L.L.P., and moves the court to rule upon the appropriateness of Ms. Gardner's continued representation of the Debtor. In support of this motion, Ms. Gardner shows as follows:

1. The Debtor filed for relief under chapter 7 of the Bankruptcy Code on November 25, 1998. Terri L. Gardner of Smith Debnam Narron & Myers, L.L.P. filed the chapter 7 petition as counsel for the Debtor.
2. On November 25, 1998, Holmes P. Harden was appointed chapter 7 trustee.
3. After the chapter 7 filing, Ms. Gardner assisted Mr. Harden in numerous ways, including creditor notice issues, preparing an amendment to the Statement of Financial Affairs and Schedules and responding to numerous attorney and creditor inquiries. Ms. Gardner's role has been greatly minimized through the passage of time, and she is not expected to have other than a nominal role going forward. If Mr. Harden requires additional information from the Debtor, Ms. Gardner must obtain it from her

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files or rely on Mr. Stanley Van Etten, President and CEO of the Debtor, and his staff to provide the information.

4. Mr. Van Etten is listed as a secured creditor of the Debtor and was the recipient of several transfers of money and property prior to the chapter 7 filing. Furthermore, he owns an interest in several companies with which the Debtor had a financial relationship.

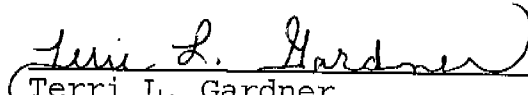
5. Mr. Van Etten retained the services of Mr. Hunter Wyche in December, 1998 to assist Mr. Van Etten in bankruptcy matters related to the Debtor's case.

6. Effective April 1, 1999, the law firm of Wyche & Story will be merging with the firm of Smith Debnam Narron & Myers, L.L.P. Therefore, Mr. Wyche and Ms. Gardner will be in the same firm. Ms. Gardner was qualified under section 327 of the Bankruptcy Code when she filed the Debtor's case, but her qualifications have been affected by the firm merger.

7. Ms. Gardner's role in the case is so reduced at this time, that she and Mr. Wyche do not believe that the Debtor or the estate will be negatively affected by her continued employment by the Debtor. However, if the court believes withdrawal is necessary, Ms. Gardner will assist the Debtor in finding substitute counsel to carry forward in her place. Ms. Gardner has incurred fees and expenses in excess of her retainer, due to the significant work related to the filing of the case and dealing with post-filing issues. She wants to preserve her right to file a fee application at the appropriate time.

WHEREFORE, Ms. Gardner respectfully requests the court conduct a hearing to determine whether Ms. Gardner can and should remain as counsel for the Debtor or should be allowed to withdraw in light of the conflict created by the law firm merger.

This the 31<sup>ST</sup> day of March, 1999.

  
\_\_\_\_\_  
Terri L. Gardner  
NC State Bar No. 9809  
Of SMITH DEBNAM NARRON WYCHE  
STORY & MYERS, L.L.P.  
P. O. Box 26268  
Raleigh, North Carolina 27611  
(919)250-2000

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION

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-OF-	)	
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(TAX ID #56-1921093),	)	
Debtor	)	
_____	)	


**NOTICE**

NOTICE IS HEREBY GIVEN of the Motion for Order Determining Whether Counsel Should Withdraw filed by Terri L. Gardner, a copy of which is attached.

FURTHER NOTICE IS HEREBY GIVEN that this Motion may be allowed, providing no objections or requests for hearing are made by parties in interest within fifteen (15) days of the date of this Notice. Objections or requests for hearing must be filed in writing with the Clerk, U.S. Bankruptcy Court, Eastern District of North Carolina, P. O. Drawer 1441, Century Station, Raleigh, North Carolina 27602, with a copy to counsel as shown below.

FURTHER NOTICE IS HEREBY GIVEN that if objections are filed by a party in interest and a hearing is requested, the hearing will be held on said objection on a date, at a time and place to be set by the court, and the attorney for the trustee and the objecting parties will be notified accordingly. Any party filing an objection or requesting a hearing will be expected to appear, or they may be taxed with the costs of scheduling a hearing. If no request for a hearing is made within the same time indicated above, the objection may be approved by this court, without any further notice.

Dated: 3/31/99

  
\_\_\_\_\_  
Terri L. Gardner  
NC State Bar No. 9809  
of SMITH DEBNAM NARRON WYCHE STORY &  
MYERS, L.L.P.  
Post Office Box 26268  
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	)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that she is over eighteen (18) years of age and the

Notice and Motion for Order Determining Whether Counsel Should Withdraw

was this day served upon the below named persons, parties and/or counsel by mailing, postage prepaid, first class mail, a copy of such instruments to such persons, parties and/or counsel at the address shown below:

Bankruptcy Administrator  
P. O. Box 3039  
Century Station  
Raleigh, NC 27602-3039

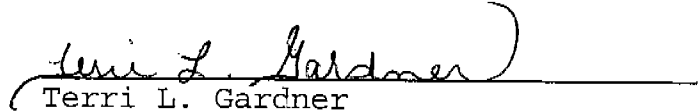
Mr. Holmes P. Harden  
Chapter 7 Trustee  
P. O. Box 17169  
Raleigh, NC 27619

Mr. Wililam P. Hicks  
U.S. Security & Exchange Commission  
Atlanta District Office  
Suite 1000  
3475 Lenox Rd.  
Atlanta, GA 30326

Mr. Brent E. Wood  
Attorney at Law  
P. O. Box 164  
Raleigh, NC 27602

Mr. Stan Van Etten  
Mayflower Capital, LLC  
2626 Glenwood Ave., Suite 100  
Raleigh, NC 27608

Dated: 3/31/99

A handwritten signature in cursive script, reading "Terri L. Gardner", is written over a horizontal line.

Terri L. Gardner  
NC State Bar No. 9809  
of SMITH DEBNAM NARRON WYCHE STORY &  
MYERS, L.L.P.  
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